

106TH CONGRESS  
2D SESSION

# H. R. 4383

To amend the Internal Revenue Code of 1986 to clarify that qualified personal service corporations may continue to use the cash method of accounting, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 4, 2000

Mr. HERGER introduced the following bill; which was referred to the  
Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to clarify that qualified personal service corporations may continue to use the cash method of accounting, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Qualified Personal  
5       Service Corporations Clarification Act of 2000”.

1 **SEC. 2. MODIFICATIONS TO DETERMINATION OF WHETHER**  
2 **CORPORATION IS A QUALIFIED PERSONAL**  
3 **SERVICE CORPORATION.**

4 (a) STOCK HELD BY CERTAIN FORMER EMPLOYEES  
5 TAKEN INTO ACCOUNT.—Subparagraph (B) of section  
6 448(d)(2) of the Internal Revenue Code of 1986 (defining  
7 qualified personal service corporation) is amended by  
8 striking “or” at the end of clause (iii), by striking the pe-  
9 riod at the end of clause (iv) and inserting a comma, and  
10 by inserting after clause (iv) the following new clauses:

11 “(v) former employees of such cor-  
12 poration holding such stock by reason of  
13 their former employment with such cor-  
14 poration, or

15 “(vi) former employees of such cor-  
16 poration holding such stock by reason of  
17 their current or former employment with  
18 any controlled entity (as defined in para-  
19 graph (4)(B)).”

20 (b) OTHER MODIFICATIONS.—Paragraph (4) of sec-  
21 tion 448(d) of such Code is amended to read as follows:

22 “(4) SPECIAL RULES FOR PARAGRAPH (2).—

23 “(A) IN GENERAL.—For purposes of para-  
24 graph (2)—

25 “(i) community property laws shall be  
26 disregarded,

1 “(ii) stock held by a plan described in  
2 section 401(a) which is exempt from tax  
3 under section 501(a) shall be treated as  
4 held by an employee described in para-  
5 graph (2)(B)(i), and

6 “(iii) at the election of the common  
7 parent of an affiliated group (within the  
8 meaning of section 1504(a)), all members  
9 of such group may be treated as 1 tax-  
10 payer for purposes of paragraph (2)(B) if  
11 80 percent or more of the activities of such  
12 group involve the performance of services  
13 in the fields described in paragraph (2)(A).

14 “(B) CONTROLLED ENTITY.—For purposes  
15 of paragraph (2)(B)(vi), the term ‘controlled  
16 entity’ means, with respect to a corporation—

17 “(i) any corporation at least 50 per-  
18 cent (by vote or value) of the outstanding  
19 stock of which is owned (directly or indi-  
20 rectly) by such corporation, and

21 “(ii) any partnership at least 50 per-  
22 cent of the capital interest or profits inter-  
23 est in which is owned (directly or indi-  
24 rectly) by such corporation.

1           “(C) NEW CORPORATIONS.—A corporation  
2           shall be treated as a qualified personal service  
3           corporation for each taxable year preceding the  
4           first taxable year for which the corporation has  
5           gross receipts if the corporation is a qualified  
6           personal service corporation for such first tax-  
7           able year.

8           “(D) CERTAIN STOCK NOT TAKEN INTO  
9           ACCOUNT.—

10           “(i) IN GENERAL.—The determination  
11           of whether an employee-owned corporation  
12           is a qualified personal service corporation  
13           shall be made without regard to stock in  
14           such corporation which is held by employ-  
15           ees of unaffiliated controlled entities. The  
16           preceding sentence shall not apply to em-  
17           ployees described in clause (v) or (vi) of  
18           paragraph (2)(B).

19           “(ii) EMPLOYEE-OWNED CORPORA-  
20           TION.—For purposes of clause (i), the  
21           term ‘employee-owned corporation’ means  
22           any corporation at least 50 percent of the  
23           value of the outstanding stock of which is  
24           owned (directly or indirectly) by employees  
25           described in paragraph (2)(B) (without re-

1           gard to this subparagraph) of such cor-  
2           poration.

3           “(iii) UNAFFILIATED CONTROLLED  
4           ENTITY.—For purposes of clause (i), the  
5           term ‘unaffiliated controlled entity’ means,  
6           with respect to an employee-owned  
7           corporation—

8           “(I) any corporation at least 50  
9           percent (by vote or value) of the out-  
10          standing stock of which is owned (di-  
11          rectly or indirectly) by members of an  
12          affiliated group (within the meaning  
13          of section 1504(a)) which includes  
14          such employee-owned corporation, and

15          “(II) any partnership at least 50  
16          percent of the capital interest or prof-  
17          its interest in which is owned (directly  
18          or indirectly) by members of such af-  
19          filiated group.

20          Such term shall not include any corpora-  
21          tion which is permitted to file a consoli-  
22          dated return with such affiliated group.

23          “(E) ENGINEERING DEFINED.—For pur-  
24          poses of paragraph (2), the term ‘engineering’  
25          includes—

1 “(i) professional services or activities  
2 of an engineering nature, as defined by  
3 State law, if applicable, which are required  
4 to be performed or approved by a person  
5 licensed, registered, or certified to provide  
6 such services;

7 “(ii) professional services or activities  
8 of an engineering nature that are associ-  
9 ated with research, planning, development,  
10 design, construction, repair, or alteration  
11 of real property; and

12 “(iii) such other professional services  
13 or activities of an engineering nature, or  
14 incidental services, which members of the  
15 engineering profession (and individuals in  
16 their employ) may logically or justifiably  
17 perform, including studies, investigations,  
18 surveying, mapping, tests, evaluations, con-  
19 sultations, comprehensive planning, pro-  
20 gram management, conceptual design,  
21 plans and specifications, value engineering,  
22 construction phase services, design-build,  
23 design-build-finance, design-build-operate-  
24 maintain, design-build-finance-operate-  
25 maintain, soils engineering, drawing re-

1 views, preparation of operating and main-  
2 tenance manuals, and other related serv-  
3 ices.

4 Professional services and activities referred to  
5 in clause (i), (ii), or (iii) shall be considered en-  
6 gineering without regard to the procurement  
7 method, delivery method, owner, or service re-  
8 cipient.”

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to taxable years ending after the  
11 date of the enactment of this Act.

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